

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

Executive Registry  
75-8386/6

26 SEP 1975

*for Dept of Justice*

Honorable Edward H. Levi  
Attorney General  
Department of Justice  
Washington, D.C. 20530

Dear Mr. Levi:

In my letter to you of 6 September 1975, I raised the question of the refusal of the Department of Justice to represent former employees of the Agency in the Rodney Driver, et al. v. Richard Helms, et al. case. In your letter to me of 19 September 1975, you responded by saying the Department of Justice would retain private counsel to defend Agency employees or former Agency employees but specified that this was solely in the context of the Driver case. In addition, of course, the Department of Justice has undertaken to represent Agency employees and former Agency employees in the following civil litigation matters: Bohmer v. Nixon, et al. (S.D. Cal.) (Defendants Colby, Walters, Helms and Angleton); Jane Fonda v. L. Patrick Gray, et al. (C.D. Cal.) (Defendant Colby); and Richard Bast v. Clarence Kelley, et al. (Defendant Colby).

There is now pending another civil case, John Doe, et al. v. John McCone, et al. (N.D.C. Cal., Civil No. C-75-1211-CBR), in which the Department of Justice has not taken a position as to representation of Agency employees and former Agency employees. While there is a court-ordered stay of any action in this case, I believe the defendants are entitled to know whether the Department of Justice will represent them for the reasons set forth in my letter to you of 6 September 1975. The gist of the complaint is the same as that in Driver, and there is pending an application for default against three of the defendants.

In recent days the Department of Justice undertook to retain private counsel for [redacted] with respect to the taking of depositions by and appearances before the Senate Select Committee to Study Government Operations with Respect to Intelligence Activities. Upon learning that the Department of Justice had undertaken this action, my representatives were

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in touch with the Department of Justice with respect to retention of counsel for James Angleton in the same forum. I am appreciative that the Department of Justice acted immediately to retain counsel for Mr. Angleton.

Approximately 200 employees and former employees of this Agency have been tentatively identified as prospective witnesses or interviewees before the Senate Select Committee and the House Select Committee on Intelligence. Additionally, a large number from this group has been identified for interview by either the Department of Justice or the Federal Bureau of Investigation in their investigations of possible violations of Federal law. As you know, these latter investigations have focused primarily on the interception of mail, a surreptitious entry, and the monitoring of calls to and from the U.S. and Latin America.

It is my view that in all of these situations the individuals concerned were taking actions which in their view at the time were in fulfillment of their responsibilities and duties as employees of the Federal Government. I realize that you cannot delegate your authority to me to hire private counsel for these individuals, and that I do not have the authority to retain private counsel to represent these individuals. Thus, I request that the Department of Justice retain counsel to represent such people. I would hope that each individual should not be left in a quandary over his or her need to secure private counsel at considerable financial sacrifice. The presumption of innocence under our Constitution and the apparent officiality of the activities in question would seem to entitle present and former employees to expect the provision of counsel at Government expense during the current investigation. Of course, if there were to be indictments or criminal trials this matter could then be re-examined.

Sincerely,

7s7 Bill

OGC:GWC:sc (9/26/75)

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W. E. Colby  
Director

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